

Executive Summary – Enforcement Matter – Case No. 46257
Diamond Shamrock Refining Company, L.P.
RN100210517
Docket No. 2013-0368-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Valero McKee Refinery, 6701 Farm-to-Market ("FM") Road 119, Sunray, Moore County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 19, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$34,388

Amount Deferred for Expedited Settlement: \$6,877

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$13,756

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$13,755

Name of SEP: Borger Independent School District

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 46257
Diamond Shamrock Refining Company, L.P.
RN100210517
Docket No. 2013-0368-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 10, 2012

Date(s) of NOE(s): February 8, 2013

Violation Information

1. Failed to continuously monitor the pilot flame for the Waste Water Flare, Emission Point No. FL-6, on August 24, 2011, October 6, 2011, November 5, 2011, December 13, 2011, February 22, 2012, April 12, 2012, May 26, 2012, June 19, 2012, and June 23, 2012 [30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 60.18(f)(2), New Source Review Permit Nos. 9708 and PSDTX861M2, Special Conditions No. 12B, and Federal Operating Permit No. O1555, Special Terms and Conditions No. 14].

2. Failed to limit the operation of a temporary engine to 10% of the normal annual operating schedule. Specifically, Respondent's temporary engine was operated for 105.6 hours over the 876-hour time limit from August 18, 2011 through August 22, 2011 [30 TEX. ADMIN. CODE § 106.511 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On August 22, 2011, upgraded the tracking system to include quality assurance and quality control measures to have two departments simultaneously track temporary engine operating hours; and
- b. On January 1, 2013, established procedures to recover pilot flame monitoring data from the Distributed Control System when the data received in the IP-21 system does not show any pilot flame data.

Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Executive Summary – Enforcement Matter – Case No. 46257
Diamond Shamrock Refining Company, L.P.
RN100210517
Docket No. 2013-0368-AIR-E

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Podlipny, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2603; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: G.M. Corcoran, Vice President & General Manager, Diamond Shamrock
Refining Company, L.P., 6701 FM Road 119, Sunray, Texas 79086
Shelly Williamson, Environmental Manager, Diamond Shamrock Refining Company,
L.P., 6701 FM Road 119, Sunray, Texas 79086

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0368-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Diamond Shamrock Refining Company, L.P.
Penalty Amount:	Twenty-Seven Thousand Five Hundred Eleven Dollars (\$27,511)
SEP Offset Amount:	Thirteen Thousand Seven Hundred Fifty-Five Dollars (\$13,755)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Recipient:	Borger Independent School District ("ISD")
Project Name:	<i>Borger ISD Clean School Bus Replacement Program</i>
Location of SEP:	Texas Air Quality Control Region 211 -Amarillo - Lubbock

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Borger Independent School District** for the *Borger ISD Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel and gasoline buses with newer buses that meet more stringent emission standards. The Third-Party Recipient shall use SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel or gasoline school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs.

Diamond Shamrock Refining Company, L.P.
Agreed Order - Attachment A

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Borger Independent School District SEP** and mail the contribution, with a copy of the Agreed Order to:

Borger Independent School District
200 East Ninth Street
Borger, Texas 79008-1177

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Feb-2013		
	PCW	18-Feb-2013	Screening	15-Feb-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Diamond Shamrock Refining Company, L.P.		
Reg. Ent. Ref. No.	RN100210517		
Facility/Site Region	1-Amarillo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	46257	No. of Violations	2
Docket No.	2013-0368-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	219.0%	Enhancement	Subtotals 2, 3, & 7	\$10,950
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Notes: Enhancement for eight orders with denial of liability, two orders without denial of liability, and three NOV's with same/similar violations. Reduction for six Notices of Intent to conduct audits.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$102
Approx. Cost of Compliance: \$1,750
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,700
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$14,700
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,700
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,940
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$11,760
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Screening Date 15-Feb-2013

Docket No. 2013-0368-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 46257

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210517

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	8	160%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	6	-6%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 219%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for eight orders with denial of liability, two orders without denial of liability, and three NOVs with same/similar violations. Reduction for six Notices of Intent to conduct audits.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 219%

Screening Date 15-Feb-2013

Docket No. 2013-0368-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 46257

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210517

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(1) and (3), 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations § 60.18(f)(2), New Source Review Permit Nos. 9708 and PSDTX861M2, Special Conditions No. 12B, and Federal Operating Permit No. O1555, Special Terms and Conditions No. 14

Violation Description

Failed to continuously monitor the pilot flame for the Waste Water Flare, Emission Point No. ("EPN") FL-6, on August 24, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for August 24, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent returned to compliance on January 1, 2013 and the NOE is dated February 8, 2013.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$7,350

This violation Final Assessed Penalty (adjusted for limits) \$7,350

Economic Benefit Worksheet

Respondent Diamond Shamrock Refining Company, L.P.
Case ID No. 46257
Reg. Ent. Reference No. RN100210517
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	24-Aug-2011	1-Jan-2013	1.36	\$102	n/a	\$102

Notes for DELAYED costs

Estimated cost to ensure that the pilot flame monitoring system is operational for EPN No. FL-6. The Date Required is the first day the pilot flame monitoring system was off-line and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$102

Screening Date 15-Feb-2013

Docket No. 2013-0368-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 46257

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210517

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 106.511 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to limit the operation of a temporary engine to 10% of the normal annual operating schedule. Specifically, the Respondent's temporary engine was operated for 105.6 hours over the 876-hour time limit from August 18, 2011 through August 22, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

5 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for the period of August 18, 2011 through August 22, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent returned to compliance on August 22, 2011 and the NOE is dated February 8, 2013.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,350

This violation Final Assessed Penalty (adjusted for limits) \$7,350

Economic Benefit Worksheet

Respondent Diamond Shamrock Refining Company, L.P.
Case ID No. 46257
Reg. Ent. Reference No. RN100210517
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	18-Aug-2011	22-Aug-2011	0.01	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to improve the recordkeeping system to track the operating hours for the temporary engine. The Date Required is the first day of the period of non-compliance and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	11-Feb-2013	Screening	15-Feb-2013	EPA Due	
	PCW	18-Feb-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Diamond Shamrock Refining Company, L.P.		
Reg. Ent. Ref. No.	RN100210517		
Facility/Site Region	1-Amarillo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	46257	No. of Violations	1
Docket No.	2013-0368-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	100.0%	Enhancement	Subtotals 2, 3, & 7	\$11,250
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Notes: Enhancement for eight orders with denial of liability, two orders without denial of liability, and three NOV's with same/similar violations. Reduction for six Notices of Intent to conduct audits.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,812
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$0
Approx. Cost of Compliance: \$0
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,688
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$19,688
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,688
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,937
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$15,751
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Screening Date 15-Feb-2013

Docket No. 2013-0368-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46257

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100210517

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	8	160%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	6	-6%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 219%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for eight orders with denial of liability, two orders without denial of liability, and three NOVs with same/similar violations. Reduction for six Notices of Intent to conduct audits.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 219%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 15-Feb-2013

Docket No. 2013-0368-AIR-E

PCW

Respondent Diamond Shamrock Refining Company, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46257

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100210517

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1) and (3), 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), 40 Code of Federal Regulations § 60.18(f)(2), New Source Review Permit Nos. 9708 and PSDTX861M2, Special Conditions No. 12B, and Federal Operating Permit No. O1555, Special Terms and Conditions No. 14

Violation Description

Failed to continuously monitor the pilot flame for the Waste Water Flare, Emission Point No. ("EPN") FL-6, on October 6, 2011, November 5, 2011, December 13, 2011, February 22, 2012, April 12, 2012, May 26, 2012, June 19, 2012, and June 23, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

8 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended from October 6, 2011 to June 23, 2012.

Good Faith Efforts to Comply

25.0%

Reduction

\$2,812

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent returned to compliance on January 1, 2013 and the NOE is dated February 8, 2013.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$19,688

This violation Final Assessed Penalty (adjusted for limits) \$19,688

Economic Benefit Worksheet

Respondent Diamond Shamrock Refining Company, L.P.
Case ID No. 46257
Reg. Ent. Reference No. RN100210517
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See the Economic Benefit in violation 1 of the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600124861, RN100210517, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600124861, Diamond Shamrock Refining Company, L.P.

Classification: SATISFACTORY

Rating: 22.72

Regulated Entity: RN100210517, VALERO MCKEE REFINERY

Classification: SATISFACTORY

Rating: 34.00

Complexity Points: 43

Repeat Violator: NO

CH Group: 02 - Oil and Petroleum Refineries

Location: 6701 FARM-TO-MARKET ROAD 119, SUNRAY, TX 79086-2013, MOORE COUNTY

TCEQ Region: REGION 01 - AMARILLO

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER MR0008T

AIR OPERATING PERMITS PERMIT 3391

WASTEWATER PERMIT WQ0003927000

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1710004

AIR NEW SOURCE PERMITS REGISTRATION 13435

AIR NEW SOURCE PERMITS REGISTRATION 10152

AIR NEW SOURCE PERMITS REGISTRATION 13095

AIR NEW SOURCE PERMITS ACCOUNT NUMBER MR0008T

AIR NEW SOURCE PERMITS REGISTRATION 70214

AIR NEW SOURCE PERMITS REGISTRATION 77646

AIR NEW SOURCE PERMITS REGISTRATION 83688

AIR NEW SOURCE PERMITS PERMIT 92928

AIR NEW SOURCE PERMITS REGISTRATION 93411

AIR NEW SOURCE PERMITS REGISTRATION 96141

AIR NEW SOURCE PERMITS REGISTRATION 97141

AIR NEW SOURCE PERMITS REGISTRATION 100131

AIR NEW SOURCE PERMITS REGISTRATION 102689

AIR NEW SOURCE PERMITS REGISTRATION 101779

AIR NEW SOURCE PERMITS REGISTRATION 107773

AIR NEW SOURCE PERMITS REGISTRATION 104935

UNDERGROUND INJECTION CONTROL PERMIT WDW192

UNDERGROUND INJECTION CONTROL PERMIT WDW225

UNDERGROUND INJECTION CONTROL PERMIT WDW333

UNDERGROUND INJECTION CONTROL PERMIT WDW102

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD059685339

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50229

ON SITE SEWAGE FACILITY PERMIT 1710272

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION

(SWR) 30871

AIR EMISSIONS INVENTORY ACCOUNT NUMBER MR0008T

AIR OPERATING PERMITS PERMIT 1555

AIR OPERATING PERMITS PERMIT 3427

WASTEWATER EPA ID TX0115851

AIR NEW SOURCE PERMITS AFS NUM 4834100031

AIR NEW SOURCE PERMITS PERMIT 9708

AIR NEW SOURCE PERMITS REGISTRATION 10727

AIR NEW SOURCE PERMITS REGISTRATION 39988

AIR NEW SOURCE PERMITS REGISTRATION 32958

AIR NEW SOURCE PERMITS REGISTRATION 71692

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX861M2

AIR NEW SOURCE PERMITS REGISTRATION 87455

AIR NEW SOURCE PERMITS EPA PERMIT HAP63

AIR NEW SOURCE PERMITS REGISTRATION 94808

AIR NEW SOURCE PERMITS REGISTRATION 95571

AIR NEW SOURCE PERMITS REGISTRATION 100128

AIR NEW SOURCE PERMITS REGISTRATION 100135

AIR NEW SOURCE PERMITS REGISTRATION 103906

AIR NEW SOURCE PERMITS EPA ID PSDTX861M3

AIR NEW SOURCE PERMITS REGISTRATION 107848

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1312

UNDERGROUND INJECTION CONTROL PERMIT WDW332

UNDERGROUND INJECTION CONTROL PERMIT WDW226

UNDERGROUND INJECTION CONTROL PERMIT WDW020

STORMWATER PERMIT TXR05P771

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 30871

ON SITE SEWAGE FACILITY PERMIT 1710271

ON SITE SEWAGE FACILITY PERMIT 1710285

WASTE WATER GENERAL PERMIT PERMIT TXG670197

POLLUTION PREVENTION PLANNING ID NUMBER P00176

Compliance History Period: September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared: February 13, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 13, 2008 to February 13, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 03/08/2008 ADMINORDER 2007-1096-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(f)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to submit additional information regarding Incident 87720 within the established timeframe.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to submit the final emissions event report for Incident 87720 within two weeks after the end of the event.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Permit 9708 Table F-2 PERMIT
Description: Failed to prevent unauthorized emissions.
- 2 Effective Date: 04/05/2009 ADMINORDER 2007-0314-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Part 60, Subpart J 60.105(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to record the Fluid Catalytic Cracking Unit (FCCU) coke burn-off rate and hours of operation. Specifically, on August 2, 2005, Diamond Shamrock failed to record the FCCU coke burn-off rate and hours of operation.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: Special Condition 8(B) PERMIT
Description: Failed to operate the Main Refinery Flare (EPN FL-1) with a pilot flame present at all times and with an automatic re-ignition system. Specifically, the flare's pilot flame was absent, and not automatically relit, on May 14, 2005, May 16, 2005, May 17, 2005, July 6, 2005, and November 22, 2005.
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT NNN 60.663(b)(2)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to operate the Main Refinery Flare (EPN FL-1) with a flow indicator that provides a record of vent stream flow to the flare at least once every hour. Specifically, the hourly flow to the flare was not recorded on November 6, 2004, June 14, 2005, July 13, 2005, and August 11, 2005.
- 3 Effective Date: 06/01/2009 ADMINORDER 2008-0738-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
5C THSC Chapter 382 382.085(b)
Description: Failed to include the compound descriptive type of all compounds released during the emissions event (Incident No. 102872) on the final emissions event report. Specifically, the Respondent reported 367 lbs of VOCs without knowing if any of the contaminants with a reportable quantity of 100 exceeded the 10 lbs above which the contaminant

has to be identified.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flexible Permit 9708 SC 2 PERMIT

Description: Failed to prevent unauthorized emissions.

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Effective Date: 08/31/2009 ADMINORDER 2008-0384-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(D)
30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
30 TAC Chapter 101, SubChapter F 101.201(b)(1)(J)
5C THSC Chapter 382 382.085(b)

Description: Failed to include the common name of the facilities, compound descriptive type and estimated quantities of all compounds released, and the cause of the emissions event (Incident No. 96231) in the final emissions event report.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flex Permit 9708/PSD-TX-861M2, SC 2 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 1,541 pounds ("lbs") of volatile organic compounds ("VOCs"), including 13 lbs of the hazardous air pollutant benzene, were released from the 60 M 1 Storage Tank, emission point number ("EPN") S-218, in the Fluid Catalytic Cracking Unit ("FCCU") during an emissions event (Incident No. 96231) that occurred on August 20, 2007 and lasted 24 hours. These emissions are not authorized by the permit. Since these emissions were avoidable, the dem

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
5C THSC Chapter 382 382.085(b)

Description: Failed to identify the compound descriptive type of all compounds released during an emissions event (Incident No. 97187) on the final emissions event report.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flex Permit 9708/PSD-TX-861M2, SC 2 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 699.81 lbs of carbon monoxide, 1.79 lbs of hydrogen sulfide ("H2S"), 97.95 lbs of nitrogen oxide, 165.07 lbs of sulfur dioxide ("SO2"), and 704.5 lbs of VOCs were released from the flare, EPN FL-3, and the 15% opacity limit exceeded from the stack vent, EPN V-20, in the Complex 1 Unit during an emissions event (Incident No. 97187) that occurred on September 9, 2007 and lasted two hours and 26 minutes. Since these emissions were avoidable,

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flex Permit 9708/PSD-TX-861M2, SC 10 PERMIT

Description: Failed to operate combustion sources with fuel at or below the maximum H2S concentration limit of 0.10 grain per dry standard cubic feet (162 parts per million), resulting in unauthorized emissions of SO2, on July 13, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flex Permit 9708/PSD-TX-861M2, SC 16 PERMIT

Description: Failed to operate Sulfur Recovery Unit ("SRU") 1 with a minimum firebox temperature of 1200 degrees Fahrenheit on September 22 and October 19, 2007 and SRU 2 on November 2, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flex Permit 9708/PSD-TX-861M2, SC 25 PERMIT

Description: Failed to operate the FCCU stack at or below the maximum opacity limit of 15 percent 17 times in June 2007, 15 times in August 2007, twice in September 2007, 10 times in October 2007, and once in November 2007.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flex Permit 9708/PSD-TX-861M2, SC 9.B. PERMIT

Description: Failed to operate flares with a pilot flame present at all times. Specifically, there was no flame present on the Wastewater Flare on September 21 and 28, 2007, the FCCU Flare twice on June 18, 2007, and the Hydrocracker Unit Flare twice on June 26, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flex Permit 9708/PSD-TX-861M2, SC 9.C. PERMIT

Description: Failed to operate the FCCU flare with no visible emissions on September 7, 9, and 10, 2007.

5 Effective Date: 10/04/2009 ADMINORDER 2009-0300-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)

30 TAC Chapter 101, SubChapter F 101.201(c)

5C THSC Chapter 382 382.085(b)

Description: Failed to include the compound descriptive type of individually listed compounds in the final emissions event report and to submit it within two weeks after the end of the event (Incident No. 114211). Specifically, the report contained the amount of particulate matter ("PM") emitted, but did not specify that it was catalyst fines. It also was required to be submitted by September 30, 2008, but was not submitted until October 9, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:NSR Permit 9708 and PSD-TX-861M2 PERMIT

NSR Permit 9708 and PSD-TX-861M2, SC 2 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 7.2 pounds of catalyst fines, a type of PM, were released from the Electrostatic Precipitator Stack, emission point number ("EPN") V-20, in the Complex 1 Unit during an emissions event (Incident No. 114211) that occurred on September 16, 2008 and lasted 24 minutes with 36.70 percent opacity.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)

5C THSC Chapter 382 382.085(b)

Description: Failed to submit the initial emissions event report within 24 hours after discovery of the event. Specifically, the event was discovered on October 12, 2008 at 9:30 p.m., but the initial notification was not submitted until October 15, 2008 at 7:30 p.m.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/PSD-TX-861M2 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 355.2 pounds of volatile organic compounds, including 112.2 pounds of hazardous air pollutants, were released from the #1 Reformer, EPN 1REF, in the Complex Unit during an emissions event (Incident No. 115445) that occurred on October 12, 2008 and lasted 15 hours.

6 Effective Date: 11/13/2009 ADMINORDER 2007-1544-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.643(a)(1)

5C THSC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov:Flexible Permit 9708, S.C. 9.B. PERMIT

Description: Failed to operate the flares with a constant pilot flame.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)

5C THSC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov:Flexible Permit 9708, S.C. 16 PERMIT

Description: Failed to maintain the minimum firebox temperature of 1200 degrees Fahrenheit at the No. 2 Sulphur Recovery Unit ("SRU") incinerator vents 13 times between August 29, 2005 and February 14, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)

40 CFR Part 63, Subpart A 63.11(b)(4)

40 CFR Part 63, Subpart CC 63.643(a)(1)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov:Flexible Permit No. 9708, S.C. 9.C. PERMIT

Description: Failed to operate the Main Refinery Flare without visible emissions lasting longer than five minutes during any two consecutive hours 19 times between January 19, 2005 and December 30, 2006.

Classification: Moderate

Citation: 40 CFR Part 63, Subpart GGGGG 63.7903(d)(3)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to inspect two frac tanks annually in 2005 and 2006.

Classification: Minor

Citation: 40 CFR Part 63, Subpart GGGGG 63.7921(c)(1)

40 CFR Part 63, Subpart GGGGG 63.7921(c)(2)

40 CFR Part 63, Subpart GGGGG 63.7950(e)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to include the required information in the Notification of Compliance Status report submitted November 8, 2006. Although the report was submitted, it did not contain any of the information required by the rule cites.

Classification: Moderate

Citation: 40 CFR Part 63, Subpart GGGGG 63.7935(b)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to operate and maintain any affected source, including air pollution control equipment, in a manner consistent with safety and good air pollution control practices.

Classification: Minor

Citation: 40 CFR Part 63, Subpart LLLLL 63.8692(b)

5C THC Chapter 382, SubChapter D 382.085(a)

Description: Failed to submit initial notification within 120 days after April 29, 2003 (August 28, 2003) for affected units in operation prior to April 29, 2003. The notification was submitted on November 24, 2003.

Classification: Minor

Citation: 40 CFR Part 63, Subpart LLLLL 63.8693(b)(1)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to submit the initial semi-annual compliance report by July 31, 2006. The report was submitted on January 29, 2007 and covered both the initial semi-annual reporting period, and the subsequent semi-annual reporting period (May 1 to December 31, 2006).

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to submit initial notification of an emissions event (Incident No. 94302) within 24 hours after discovery of the event. Specifically, the event was discovered on July 16, 2007 at 5:00 p.m., but was not reported until July 19, 2007 at 7:21 p.m.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov:Flexible Permit No. 9708, S.C. 2 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov:Flex Permit 9708 and PSD-TX-861M S.C. 2 PERMIT

Description: Failed to prevent unauthorized emissions.

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Effective Date: 08/09/2010 ADMINORDER 2009-0748-AIR-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

30 TAC Chapter 116, SubChapter G 116.715(c)(7)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:9708/PSD-TX-861M2 PERMIT

Description: Failed to prevent the unauthorized release of emissions. Because these emissions could have been foreseen and avoided by good design and/or maintenance practices, the demonstrations for an affirmative defense in 30 TEX.

ADMIN. CODE § 101.222 could not be met.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(1)
5C THSC Chapter 382 382.085(b)

Description: Failed to limit the maximum H2S concentration in the fuel gas.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(2)
5C THSC Chapter 382 382.085(b)

Description: Failed to limit the maximum SO2 concentration in gases discharged from the No. 2 Claus SRU to 250 ppm by volume (dry basis)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)(iv)
5C THSC Chapter 382 382.085(b)

Description: Failed to equip or maintain a cover or lid in a closed position on each opening in the internal floating roof of Tank T-115.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.356(g)
5C THSC Chapter 382 382.085(b)

Description: Failed to keep complete records of quarterly waste streams inspections.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.357(d)(8)
5C THSC Chapter 382 382.085(b)

Description: Failed to submit complete annual reports of benzene inspections for 2007 and 2008

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:SC 17/PSD-TX-861M2 PERMIT

Description: failed to maintain the minimum incinerator temperature of 1336 °F for the No. 1 SRU and 1281°F for the No. 2 SRU.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:SC 16/PSD-TX-861M2 PERMIT

Description: failed to meet the minimum O2 concentration of 1% in the incinerator stack of the No. 2 SRU.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:SC 21/PSD--TX-861M2 PERMIT

Description: Failed to route sour gas from the truck loading equipment back to the thermal reactor or the incinerator

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:SC 9B/PSD-TX-861M2 PERMIT

Description: Failed to operate the EPN FL-1 with a pilot flame.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to obtain a permit amendment prior to the installation of the slotted guide poles on floating roof tanks, Tank Nos. 1001, 120M2, and 120M3

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
5C THSC Chapter 382 382.085(b)

Description: Failed to include in the final report the compound descriptive type of all compounds released during an emissions event which occurred on January 9, 2009.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/PSD-TX-861M2 PERMIT

Description: Failed to control unauthorized catalyst fines particulate emissions and exceeded maximum opacity rates.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
5C THSC Chapter 382 382.085(b)

Description: Failed to include on the final report the compound descriptive type of all compounds released during an emissions event which occurred January 9, 2009 through January 12, 2009.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/PSD-TX-861M2 PERMIT

Description: Failed to prevent the release of 98,774 lbs of VOC from the 60M-1 storage tank during an emissions event which occurred January 9, 2009 through January 12, 2009.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
5C THSC Chapter 382 382.085(b)

Description: Failed to include on the final report the compound descriptive type of all compounds released during an emissions event which occurred on March 5, 2009.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/PSD-TX-861M2 PERMIT

Description: Failed to prevent the release of 2,955 lbs of VOC from the gasoline blending unit during an emissions event which occurred on March 5, 2009.

8

Effective Date: 06/20/2011 ADMINORDER 2010-1410-AIR-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Special Condition 2 of Permit No. 9708 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Special Condition 2 of Permit No. 9708/P PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)
30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
5C THSC Chapter 382 382.085(b)

Description: Failed to properly report Incident No. 138521.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/PSD-TX-861M2 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/PSD-TX-861M2 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/PSD-TX-861M2 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Permit No. 9708/P PERMIT

Description: Failed to prevent unauthorized emissions.

9 Effective Date: 11/18/2011 ADMINORDER 2010-0909-MLM-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flexible Permit 9708, SC 2 PERMIT

Description: Failed to prevent unauthorized emissions at the McKee Plant.

Classification: Major

Citation: 30 TAC Chapter 106, SubChapter W 106.512(1)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP No. O-01555, SC 15 OP

Description: Failed to obtain authorization to operate a 450 horsepower compressor engine in the No. 1 Crude Unit at the McKee Plant. Specifically, Form PI-7 was required to be submitted within ten days after construction began but has not been submitted.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT QQQ 60.692-2(a)(3)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP No. O-01555, SC 5B OP

Description: Failed to conduct initial and weekly inspections of inactive drains for indications of low water levels or other problems that could result in VOC emissions (inspections are required initially upon taking the drain out of service and weekly thereafter) at the McKee Plant.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT QQQ 60.692-2(a)(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP No. O-01555, SC 5B OP

Description: Failed to conduct initial and monthly inspections of active drains for indications of low water levels or other problems that could result in VOC emissions (inspections are required initially upon the drain being put into service and monthly thereafter) at the McKee Plant.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT QQQ 60.692-2(a)(5)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP No. O-01555 OP

Description: Failed to repair 70 drains within 24 hours after determining that low water levels or missing or improperly installed caps and plugs were identified (indicating that pollutants are being released) at the McKee Plant, as reported in the January 1 to June 30, 2009 semi-annual deviation report.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flexible Permit 9708, SC 23D PERMIT

Description: Failed to record the date and time of the audio, visual, and olfactory ("AVO") inspections for leaks in pipes, pumps, valves, and compressors in H2S, SO2, and ammonia service at the McKee Plant.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)
5C THSC Chapter 382 382.085(b)

Description: Failed to ensure that the pilot flame monitor is detecting the pilot flame for the Main Flare (EPN FL-1), the

Fluid Catalytic Cracking Unit Flare (EPN FL-3), and the Hydrocarbon Unit Flare (EPN FL-4) intermittently between January 16, 2008 and January 12, 2010 at the McKee Plant.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.6(e)(3)(viii)
5C THSC Chapter 382 382.085(b)

Description: Failed to update the SSMP within 45 days after the April 2, 2009 malfunctions occurred at the Reheat Exchanger in the No. 2 Sulfur Recovery Unit, in order to include detailed procedures for operating and maintaining the source during similar malfunctions as well as a corrective action program at the McKee Plant.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:Flexible Permit No. 9708 PERMIT

Description: Failed to prevent the unauthorized emissions.

10 Effective Date: 01/27/2012 ADMINORDER 2011-0710-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter F 116.615(4)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP No. O1555 OP

FOP O1555, STC 14 OP

Standard Permit 92528 PERMIT

Description: Failed to submit notification to the TCEQ within 15 working days after the start of construction of the Boiler 19 modification project, emission point number ("EPN") B-11. Specifically, construction began on June 14, 2010 and the notification was required to be submitted by July 5, 2010, but was never submitted.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.780
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUU 63.1576(e)
5C THSC Chapter 382 382.085(b)

Description: Failed to maintain a record of a December 5, 2010 inspection that was conducted to demonstrate compliance with the operation, maintenance, and monitoring plan of the Fluid Catalytic Cracking Unit.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Part 60, Subpart H 60.82(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to limit sulfur dioxide ("SO2") emissions to 4 pounds per ton of sulfuric acid production from the Acid Plant, EPN V-29. Specifically, on August 31, 2010, 139.11 pounds of SO2 emissions were released.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP O1555, STC 2.F. OP

Description: Failed to determine if an emissions event is reportable within 24 hours after discovery of the event.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to obtain authorization from the TCEQ prior to modification of Boiler 19, EPN B-11. Specifically, construction began on June 14, 2010, but the project was not approved under Standard Permit Registration No. 92528 until June 30, 2010.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to obtain authorization from the TCEQ prior to installation of the Soda Ash Silo and Water Treater Lime Silo Baghouses, EPNs V-13 and V-14. Specifically, construction began September 22, 2010, but the project was not approved under Standard Permit Registration No. 94198 until December 28, 2010.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to obtain authorization from the TCEQ prior to installation of a Flare Gas Recovery System installation,

EPN F-FGR. Specifically, construction began November 3, 2010, but the application was not approved under Standard Permit Registration No. 94205 until February 10, 2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	February 14, 2008	(617189)
Item 2	February 20, 2008	(618387)
Item 3	March 13, 2008	(638732)
Item 4	April 17, 2008	(653264)
Item 5	May 30, 2008	(695546)
Item 6	June 17, 2008	(683001)
Item 7	July 01, 2008	(695550)
Item 8	July 02, 2008	(684662)
Item 9	July 15, 2008	(695551)
Item 10	July 20, 2008	(334071)
Item 11	September 11, 2008	(700819)
Item 12	September 15, 2008	(700539)
Item 13	October 08, 2008	(704830)
Item 14	October 09, 2008	(717085)
Item 15	October 17, 2008	(705769)
Item 16	November 10, 2008	(717087)
Item 17	November 21, 2008	(708521)
Item 18	December 15, 2008	(710174)
Item 19	December 16, 2008	(755777)
Item 20	December 22, 2008	(721734)
Item 21	January 12, 2009	(722626)
Item 22	January 26, 2009	(732469)
Item 23	January 28, 2009	(724669)
Item 24	February 02, 2009	(755774)
Item 25	February 06, 2009	(724918)
Item 26	February 08, 2009	(725042)
Item 27	February 09, 2009	(725420)
Item 28	February 19, 2009	(735611)
Item 29	March 03, 2009	(755775)
Item 30	April 03, 2009	(755776)
Item 31	April 29, 2009	(744045)
Item 32	May 01, 2009	(772784)
Item 33	May 12, 2009	(745290)
Item 34	June 02, 2009	(772785)
Item 35	June 22, 2009	(749679)
Item 36	July 17, 2009	(762606)
Item 37	July 20, 2009	(818441)
Item 38	July 22, 2009	(763145)
Item 39	July 28, 2009	(763639)
Item 40	August 04, 2009	(818442)
Item 41	August 26, 2009	(767290)
Item 42	September 04, 2009	(818443)
Item 43	September 10, 2009	(767651)
Item 44	September 11, 2009	(775945)
Item 45	October 07, 2009	(777362)
Item 46	October 09, 2009	(818444)
Item 47	November 05, 2009	(818445)
Item 48	November 16, 2009	(782609)
Item 49	November 24, 2009	(782887)
Item 50	December 02, 2009	(784081)
Item 51	December 08, 2009	(818446)

Item 52	January 14, 2010	(818447)
Item 53	January 25, 2010	(789299)
Item 54	January 27, 2010	(787505)
Item 55	January 28, 2010	(787272)
Item 56	February 04, 2010	(788915)
Item 57	February 05, 2010	(818440)
Item 58	February 07, 2010	(790483)
Item 59	February 17, 2010	(791885)
Item 60	February 19, 2010	(791552)
Item 61	March 10, 2010	(835707)
Item 62	March 26, 2010	(796195)
Item 63	April 07, 2010	(835708)
Item 64	May 10, 2010	(835709)
Item 65	May 12, 2010	(802180)
Item 66	May 26, 2010	(803436)
Item 67	June 16, 2010	(826958)
Item 68	July 01, 2010	(826924)
Item 69	July 08, 2010	(829695)
Item 70	July 15, 2010	(841516)
Item 71	August 13, 2010	(846068)
Item 72	September 03, 2010	(858405)
Item 73	September 08, 2010	(860043)
Item 74	September 10, 2010	(860199)
Item 75	September 28, 2010	(865485)
Item 76	October 01, 2010	(865561)
Item 77	October 11, 2010	(883181)
Item 78	November 12, 2010	(873439)
Item 79	November 18, 2010	(877560)
Item 80	November 29, 2010	(879343)
Item 81	December 01, 2010	(897961)
Item 82	January 05, 2011	(887276)
Item 83	January 06, 2011	(886617)
Item 84	January 11, 2011	(903858)
Item 85	January 26, 2011	(892668)
Item 86	February 01, 2011	(892282)
Item 87	February 03, 2011	(894563)
Item 88	February 09, 2011	(910752)
Item 89	February 17, 2011	(892103)
Item 90	February 18, 2011	(887629)
Item 91	March 03, 2011	(900358)
Item 92	March 04, 2011	(930068)
Item 93	March 29, 2011	(906266)
Item 94	April 14, 2011	(930069)
Item 95	April 18, 2011	(913145)
Item 96	May 06, 2011	(939711)
Item 97	June 10, 2011	(924447)
Item 98	June 17, 2011	(947130)
Item 99	July 06, 2011	(954384)
Item 100	July 20, 2011	(942002)
Item 101	August 04, 2011	(960965)
Item 102	August 15, 2011	(948922)
Item 103	September 08, 2011	(967061)
Item 104	October 04, 2011	(958207)
Item 105	October 07, 2011	(958861)
Item 106	October 25, 2011	(973025)
Item 107	November 11, 2011	(979153)
Item 108	November 29, 2011	(969700)
Item 109	December 02, 2011	(985998)
Item 110	December 07, 2011	(968969)
Item 111	January 13, 2012	(992352)
Item 112	January 19, 2012	(968829)

Item 113	February 14, 2012	(999656)
Item 114	February 24, 2012	(981691)
Item 115	March 02, 2012	(1005206)
Item 116	March 08, 2012	(990317)
Item 117	March 16, 2012	(994420)
Item 118	March 20, 2012	(994774)
Item 119	April 15, 2012	(1011785)
Item 120	May 08, 2012	(1001887)
Item 121	May 15, 2012	(1018140)
Item 122	June 18, 2012	(1013465)
Item 123	July 09, 2012	(1033235)
Item 124	August 07, 2012	(1039749)
Item 125	August 21, 2012	(1021769)
Item 126	September 05, 2012	(1028771)
Item 127	September 17, 2012	(1048696)
Item 128	October 03, 2012	(1035155)
Item 129	October 10, 2012	(1027391)
Item 130	January 08, 2013	(1052297)
Item 131	January 10, 2013	(1041051)
Item 132	January 15, 2013	(1051968)
Item 133	February 01, 2013	(1056095)
Item 134	February 07, 2013	(1057111)
Item 135	February 08, 2013	(1057567)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | | |
|---|--|--------------------------|--|
| 1 | Date: 06/05/2012 (1008440) | CN600124861 | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Permit No. 9708/PSD-TX-861M2 PERMIT | | |
| | Description: failure to comply with permitted opacity limits for FCCU stack vent during excess opacity event which did not meet the affirmative defense criteria | | |
| 2 | Date: 08/01/2012 (1016151) | CN600124861 | |
| | Self Report? NO | Classification: Minor | |
| | Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b) | | |
| | Description: Failure to submit notification of an emissions event within 24 hours of discovery | | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b) | | |
| | Description: failure to comply with permitted opacity limits for FCCU stack during emissions event which did not meet the affirmative defense criteria | | |
| | Self Report? NO | Classification: Minor | |
| | Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THSC Chapter 382 382.085(b) | | |
| | Description: Failure to submit notification of an emissions event within 24 hours of discovery | | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b) | | |
| | Description: failure to comply with permitted opacity limits for FCCU stack during emissions event which did not meet the affirmative defense criteria | | |
| 3 | Date: 02/08/2013 (1053378) | CN600124861 | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(2)(i)
5C THSC Chapter 382 382.085(b)
SC No. 1 PA
SC No. 14 OP | | |
| | Description: The review of the deviation report, submitted on January 31, 2012 (event No. 1, page 1) indicated that the SO2 emissions in SRU No. 1 exceeded the allowable | | |

value of 250 ppm on July 26, 2011 and November 22, 2011. The facility is in violation of the provisions of 40 CFR 60 Subpart J, §60.104(a)(2)(i), 5C THSC §382.085(b), 30 TAC §122.143(4), 30 TAC §116.115(c), and special provision No. 14 of the SOP permit No. O1555.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 14 OP SC No. 20 PA		
Description:	The review of the deviation report, submitted on January 31, 2012 (event No. 3, page 1) indicated that the oxygen concentration in the No. 1 SRU was below 1 percent on November 22, 2011. The facility is in violation of the provisions of 5C THSC §382.085(b), 30 TAC §122.143(4), 30 TAC §116.115(c), and special provision No. 14 of the SOP permit No. O1555.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 14 OP SC No. 22 PA		
Description:	The review of the deviation report, submitted on January 31, 2012 (event No. 4, page 1) indicated that the No. 1 SRU efficiency was not met on November 22, 2011. The facility is in violation of the provisions of 5C THSC §382.085(b), 30 TAC §122.143(4), 30 TAC §116.115(c), and special provision No. 14 of the SOP permit No. O1555.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 14 OP SC No. 38 PA		
Description:	The facility is in violation of the provisions of 5C THSC §382.085(b), 30 TAC §122.143(4), 30 TAC §116.115(c), and special provision No. 14 of the SOP permit No. O1555.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(1) 5C THSC Chapter 382 382.085(b) SC No. 1 PA SC No. 14 OP		
Description:	The facility is in violation of the provisions of 40 CFR 60 Subpart J, §60.104(a)(1), 5C THSC §382.085(b), 30 TAC §122.143(4), 30 TAC §116.115(c), and special provision No. 14 of the SOP permit No. O1555.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 12(C) PA SC No. 14 OP		
Description:	The facility is in violation of the provisions of 30 TAC §116.115(c), 5C THSC §382.085(b), 30 TAC §122.143(4), and special provision No. 14 of the SOP permit No. O1555.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(2) 5C THSC Chapter 382 382.085(b) SC No. 12 PA SC No. 14 OP		
Description:	The facility is in violation of the provisions of 30 TAC §116.115(c), 5C THSC §382.085(b), 40 CFR §60.18(f)(2), 30 TAC §122.143(4), and special provision No. 14 of the SOP permit No. O1555.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 14 OP SC No. 33C PA		
Description:	The review of the deviation report, submitted on January 31, 2012 (event No. 37, page 11) indicated that the Cylinder Gas Audits (CGA) conducted for these three units were invalid since the calibration gas used had expired. The facility is in violation of the provisions of 30 TAC §116.115(c), 5C THSC §382.085(b), 40 CFR		

Part 60 Appendix F, 30 TAC §122.143(4), and special provision No. 14 of the SOP permit No. O1555.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 14 OP SC No. 33(c) PA		
Description:	The facility is in violation of the provisions of 30 TAC §116.115(c), 5C THSC §382.085(b), 30 TAC §122.143(4), and special provision No. 14 of the SOP permit No. O1555.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 14 OP SC No. 29 PA		
Description:	The facility is in violation of the provisions of 30 TAC §116.115(c), 5C THSC §382.085(b), 30 TAC §122.143(4), and special provision No. 14 of the SOP permit No. O1555 regrading opacity values from the FCCU.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 13 OP SC No. 6 PA		
Description:	The review of the deviation report submitted on July 30, 2012 indicated that weekly cooling water samples were not collected upon startup of the plant for the period February 26, 2012 through March 23, 2012. The facility is in violation of the requirements of the special condition No. 6 of the permit No. 92928, 30 TAC §116.115(c), THSC §382.085(b), 30 TAC §122.143(4), and special provision No. 13 of the SOP No. O3427.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) SC No. 13 OP SC No. 7 PA		
Description:	The review of the deviation report submitted on July 30, 2012 indicated that no quarterly visible emissions observation was conducted during the first quarter of 2012 (February 26 through March 31, 2012). The facility is in violation of the requirements of the special condition No. 7 of the permit No. 92928, 30 TAC §116.115(c), THSC §382.085(b), 30 TAC §122.143(4), and special provision No. 13 of the SOP No. O3427.		

F. Environmental audits:

Notice of Intent Date: 05/05/2008 (671277)
No DOV Associated

Notice of Intent Date: 08/29/2008 (739445)
No DOV Associated

Notice of Intent Date: 04/28/2010 (826733)
No DOV Associated

Notice of Intent Date: 02/18/2011 (912581)
No DOV Associated

Notice of Intent Date: 10/18/2011 (969457)
No DOV Associated

Notice of Intent Date: 09/21/2012 (1042725)
No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DIAMOND SHAMROCK
REFINING COMPANY, L.P.
RN100210517**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0368-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Diamond Shamrock Refining Company, L.P. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a petroleum refinery at 6701 Farm-to-Market Road 119 in Sunray, Moore County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 13, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-Four Thousand Three Hundred Eighty-Eight Dollars (\$34,388) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Thirteen Thousand Seven Hundred Fifty-Six Dollars (\$13,756) of the administrative penalty and Six Thousand Eight Hundred Seventy-Seven Dollars (\$6,877) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirteen Thousand Seven Hundred Fifty-Five Dollars (\$13,755) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On August 22, 2011, upgraded the tracking system to include quality assurance and quality control measures to have two departments simultaneously track temporary engine operating hours; and
 - b. On January 1, 2013, established procedures to recover pilot flame monitoring data from the Distributed Control System when the data received in the IP-21 system does not show any pilot flame data.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to continuously monitor the pilot flame for the Waste Water Flare, Emission Point No. ("EPN") FL-6, on August 24, 2011, October 6, 2011, November 5, 2011, December 13, 2011, February 22, 2012, April 12, 2012, May 26, 2012, June 19, 2012, and June 23, 2012, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 116.115(c) and 122.143(4), TEX.

HEALTH & SAFETY CODE § 382.085(b), 40 CODE OF FEDERAL REGULATIONS § 60.18(f)(2), New Source Review Permit Nos. 9708 and PSDTX861M2, Special Conditions No. 12B, and Federal Operating Permit No. 01555, Special Terms and Conditions No. 14, as documented during an investigation conducted on December 10, 2012 through December 13, 2012.

2. Failed to limit the operation of a temporary engine to 10% of the normal annual operating schedule, in violation of 30 TEX. ADMIN. CODE § 106.511 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 10, 2012 through December 13, 2012. Specifically, the Respondent's temporary engine was operated for 105.6 hours over the 876-hour time limit from August 18, 2011 through August 22, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Diamond Shamrock Refining Company, L.P., Docket No. 2013-0368-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Thirteen Thousand Seven Hundred Fifty-Five Dollars (\$13,755) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God,

war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Perm/America
For the Executive Director

8/13/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

GM
Signature

13 May 2013
Date

GM Carceran
Name (Printed or typed)
Authorized Representative of
Diamond Shamrock Refining Company, L.P.

VP & GM
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-0368-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Diamond Shamrock Refining Company, L.P.
Penalty Amount:	Twenty-Seven Thousand Five Hundred Eleven Dollars (\$27,511)
SEP Offset Amount:	Thirteen Thousand Seven Hundred Fifty-Five Dollars (\$13,755)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Recipient:	Borger Independent School District ("ISD")
Project Name:	<i>Borger ISD Clean School Bus Replacement Program</i>
Location of SEP:	Texas Air Quality Control Region 211 -Amarillo - Lubbock

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Borger Independent School District** for the *Borger ISD Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel and gasoline buses with newer buses that meet more stringent emission standards. The Third-Party Recipient shall use SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel or gasoline school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs.

Diamond Shamrock Refining Company, L.P.
Agreed Order - Attachment A

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Borger Independent School District SEP** and mail the contribution, with a copy of the Agreed Order to:

Borger Independent School District
200 East Ninth Street
Borger, Texas 79008-1177

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.